

# THE HONOLULU REPUBLICAN.

VOLUME I, NO. 63.

HONOLULU, H. T., SATURDAY, AUGUST 25, 1900.

PRICE FIVE CENTS

## EUGENE AVERY IS AGAIN EXONERATED.

### Embezzlement Charge Has No Foundation Whatever.

#### JUDGE SILLIMAN DISCHARGES HIM.

#### ATTORNEY GENERAL DOLE APPEARS IN PERSON TO PROSECUTE DEFENDANT.

#### Strong Testimony Was Adduced to Show That a Partnership Existed With King Brothers—Lively Proceedings.

Eugene Avery is a persecuted man. Twice has he been given his freedom by judges of Honolulu courts on the charge of embezzlement. The second embezzlement charge was brushed away in Judge Silliman's court yesterday afternoon without the defense putting on a single witness and without the case going to the jury.

The case is this: Avery is an advertising solicitor. Like all advertising solicitors of ability Avery is fertile in resources—that is, in resources where dealers in merchandise and commodities can appraise the public, paradoxically, of the value and cheapness of their wares; value in reference to the wear, comfort, convenience and luxury of their goods; cheapness concerning the price asked for the goods.

Avery, like all capable advertising solicitors, enjoys good living. On coming to Honolulu he was impressed with the poor quality of the restaurants. The bills of fare at nearly all of the haughty, like Honolulu weather, with slight variations, were generally the same. He heard the complaints of customers, and while he was not a caterer himself he thought he would soften the asperities of patrons by getting up handsome covers in which those bills of fare could be attractively displayed. The covers were of heavy imitation leather. On each side a photograph of a fascinating and modest girl with flowing tresses would lend grace and adornment. The inside covers could be filled with ads from business houses. While there would be no change in the bills of fare, the covers would lessen zest of appetite by furnishing mental pabulum.

Well, when Avery had thought out this entire scheme to his own satisfaction he went to King Brothers and unfolded his plan. They thought it practicable and Cal Melvin and W. C. King, members of the firm, entered into an agreement with Avery to canvass for ads for the very thing Avery was paid for getting up the work. King Brothers' ad was to be inserted without cost, and Avery was to use the name of the firm to canvass for the covers.

How Avery was arrested on the Australia on August 7th at the instigation of W. C. King on the charge of embezzlement; his acquittal in the police court; his indictment on the charge of embezzlement by the grand jury, is ancient history.

But the appearance of Attorney General Dole to prosecute him on the charge of embezzling \$72 from King Brothers in Judge Silliman's court yesterday is the news of the day.

The following jurors were empaneled to try the case: M. K. Keohokalo, F. H. Armstrong, W. C. Wilder, Jr., Geo. L. Wells, John Waterhouse, H. F. Wichman, Jacob Lande, W. W. Diamond, T. G. Krouse, E. S. Cunha, J. H. Schnack and E. O. White.

Davis and Gear appeared for the defendant.

W. C. King retold the story of Avery's arrest on the Australia. On the morning of the sailing of the steamer Avery came into the store and requested an interview. Mr. King, being busy, advised him to see Melvin. He saw no more of Avery until he was arrested on the Australia. When Avery was arrested he told the witness that there was no use in pushing the matter, as he hadn't a bean. He threatened the witness on the way to the police station with all kinds of damage suits.

"Wasn't it a partnership that existed between you and Avery?" asked Attorney Dole.

"I presume it could be looked upon as a partnership," answered the witness.

The witness further admitted that the firm was to divide as he understood it, the profits and losses with Avery.

Attorney General Dole showed a bundle of receipts signed by Avery to the witness. The receipts were for moneys received from advertisers on the covers. On every receipt he asked if the signature was in Avery's handwriting. And the witness answered in the affirmative.

The defendant's attorneys offered no objection to the introduction of the vouchers.

Chester A. Doyle testified to the arrest of Avery on the steamer.

The night clerk of the police station, familiarly known as Jake, was the next witness. He testified that when Avery was searched at the station he had \$60 in gold, 65 cents in silver and a syringe box.

"Isn't it the custom to search all that come in there and take all they have got?" asked Attorney Dole, and there was a roar of laughter. Even the classical countenance of the court betrayed a smile.

Davis thought it was no laughing matter.

"Have you got the money now?" he asked.

"It was returned to him," answered the policeman.

Then Attorney General Dole started to call all those merchants who had given Avery money and received his receipts for the same.

Miss Killian was the first witness to

take the stand to give testimony on this line. She walked to the stand with the bearing of a queen.

"We will excuse all this line of testimony to save time," said Attorney Dole. "We will admit all the prosecution intend proving by these witnesses."

This completed the case for the prosecution.

And Mr. Davis moved that the defendant be discharged.

"The evidence adduced on the part of the prosecution," said he, "is wholly insufficient to convict the defendant. There is no evidence to submit to the jury and upon which they could find the defendant guilty as charged in the indictment."

"Chapter XVIII of the Penal Laws in this Territory, section 157, defines the crime of embezzlement to be: 'If any person who is entrusted with or has the possession, control, custody or keeping of a thing of value of another by the consent of authority, direct or indirect, of such other, without the consent and against the will of the owner fraudulently converts or disposes of the same, or attempts so to convert or dispose of the same to his own use and benefit, or to the use and benefit of another than the owner or a person entitled thereto, he is guilty of the embezzlement of such thing.'"

"The crime of embezzlement is purely a statutory offense and unknown to the common law. The evidence adduced discloses that there was a contract and agreement entered into by King with defendant for the getting up and publication of binders for restaurant bills of fare. These binders were to have advertisements posted in them and defendant was to go around and solicit the advertisements. King Brothers were to get their advertisements for nothing, and he was to have the money there was over the cost of the book. There were some changes made afterwards. King had more bills of fare printed than they agreed on. He turned over \$1.15 and it clearly appears that the defendant paid over in accordance with the terms of his contract all the money entrusted to his keeping by King. There was a partnership in this case. It therefore follows that there was no conversion of the money or that King was deprived of his property by an adverse using or holding."

Many authorities were cited by the counsel in corroboration of his argument.

Dole made one of his characteristically eloquent speeches, samples of which have been fully reported in The Republican.

Judge Silliman discharged the defendant and ordered the case stricken from the calendar, stating that there were no grounds for holding Avery on the charge.

L. K. Halualani is Dead.

L. K. Halualani died Wednesday at Well, when Avery had thought out this entire scheme to his own satisfaction he went to King Brothers and unfolded his plan. They thought it practicable and Cal Melvin and W. C. King, members of the firm, entered into an agreement with Avery to canvass for ads for the very thing Avery was paid for getting up the work. King Brothers' ad was to be inserted without cost, and Avery was to use the name of the firm to canvass for the covers.

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## GOVERNOR'S COUNCIL HAS NO READY CASH.

### Plenty of Territorial Work to Do But No Money.

#### MUST WAIT FOR THE LEGISLATURE.

#### A GARBAGE CREMATORY AND BERETANIA HIGH PUMP MUST WAIT.

#### Fujiyama, the Japanese Murderer, Has His Life Respected By a Judicial Joke.

The governor's council meeting yesterday morning was rather suggestive than effective. There was considerable talking, but only little action. All the members were present save Land Commissioner Brown and Attorney General Dole.

The United States marine hospital service, through Dr. Carmichael, joined Collector Stackable in a further request for the use of the channel wharf, with a view of converting it into a new quarantine station, should need arise. The subject was talked over, but no action was taken.

"Want of funds" was the cry thenceforth in the meeting. The future work to be done on the garbage crematory was first considered. There is not enough money on hand to complete the structure. No funds will be available until the legislature meets and makes further appropriations for this purpose. While no definite action was taken it was practically agreed that the money on hand should be applied to the completion of the foundation work, the superstructure to be postponed until the legislature could help out.

It has long been desired that a high pressure engine should be added to the Beretania street pumping station, the object being to reach the higher slopes of Punchbowl. This is a recognized necessity, but some one said "no money" and that went over to that hoped-for happy time when the legislature will unlock the treasure box.

John Wilson, the contractor on the outfall sewer, is now sixty days over due on his work. At the rate he is going it will take him six months more to complete the work, which is among the most important now under way in the city. It was determined that his bondsmen should be given a chance to do the work or the government will take it up under the contract and finish it as speedily as possible.

Superintendent of Public Instruction Atkinson stated that the board of education had under consideration the taking of steps requiring medical examination of teachers and care in the inspection of children applying for admission to the schools. There was no dissenting vote to the plan and there is little doubt that it will be promptly enforced. The universal opinion appears to be that such a course is imperative.

An application was received from the Wahluwa Sugar company looking towards negotiations to secure some water rights owned by the government down near their plantation. The proposition was discussed at some length, but no action was taken.

The mittimus and copy of the record in the case of Fujiyama, the Japanese murderer under sentence of death at Hilo, being faulty, were returned for correction. The mittimus was found faulty in construction and the record had not been properly certified to by the court. This will give Fujiyama a new lease of life and may spoil a joke for Judge Little.

KUALE STOLE FIFTY-FIVE BAGS OF RICE.

Solomon Kuale was arrested last evening by Detective Kapua and charged with the theft of fifty-five bags of rice. He was locked up, as he was unable to furnish the bail required for his release, which was placed at \$1,000.

The story of his first crime shows that it was carefully planned and that the man is liable to become a dangerous criminal if his career is not cut short with a term in prison.

Early yesterday Kuale intercepted a dray load of rice belonging to Sing Loy. The rice was on its way from Moiliili, in charge of a Chinese driver. He had been told to take it to the warehouse of T. H. Davies & Co. and was stopped by Kuale and directed to deliver the rice at the wharf. The driver, not suspecting that anything was wrong, did as he was told to do and deposited the rice at the wharf and driven off Kuale got another dray and, loading the rice on it, started up town with it. He went to the Relief Camp, where he had made arrangements for the sale of the rice, and delivered the whole load. One man, the keeper of a boarding house, took forty bags and the rest was sold in lots of one and two bags.

While this was all going on, Davies & Co. were waiting for the rice that was expected, and as it did not turn up they telephoned to Sing Loy to inquire as to its whereabouts. They were informed that it had been sent to them. The owner of the rice then hunted up his driver and was informed that he had delivered it to the wharf to the order of the native who had stopped him on the road.

Sing Loy knew that something was wrong and went to the police with the story of the driver. Kapua was put on the case and soon had a clue. He followed the rice from the wharf to the Relief Camp and recovered most of it. It was taken to the police station to be held as evidence against Kuale and two of the Japs who had bought the stolen rice were locked up and held on a charge of receiving stolen goods. The case will come up before Judge Wilcox this morning.

## SLAVERY EXISTS IN HONOLULU, AND HUMAN CHATTELS HERDED IN STOCKADES.

### The Rev. W. K. Azbill Points Out the Awful Conditions at Iwilei.

#### Special Police Rules for the Guidance of Officers and the Control of Masters and Slaves at This Terrible Den of Sin and Iniquity.

Few, if any, of the residents of Honolulu have any idea of the remedy (?) the government has wrought in the Pauahi street evil which has been removed to Iwilei beyond the jail.

Mr. W. K. Azbill, who is engaged in mission work among the Japanese, and who has secured the use of a little chapel in that district where he will begin work tonight with the assistance of Mr. Cory, Miss Harrison, Mr. Ota and others, has been investigating, and he furnishes the following information:

To the Editor of The Republican:

Sir—Being of the opinion that this community will not permit the state of things at the Japanese Joshiwaru in Iwilei to continue long after the truth is revealed about it, I hand you the following information:

The dormitories in use for evil purposes, containing probably two hundred rooms, are enclosed by a fence such as that around the burnt district after the plague, and the entrances to the place are open to the streets where men, women and children not connected with the nefarious business, passing hourly can see into the passageways; see the women going about the place, and see the patrons—mostly Chinese and Europeans—going in and out at all times.

During the hours which the authorities have set apart for the evil business, crowds gather about the main entrance, many of whom are the husbands of the women whom they have carried there to prostitute, or the owners of the prostitutes who are there to be bargained off to any corners to the sink of iniquity.

The policeman on guard there this morning gave it as his opinion that the evil is made worse by the plan the authorities have fallen upon. It is impossible to right all the facts which go to show that he is right in his notion.

Below I give you a translation of the rules which, by authority are placed over the entrances at five or six places, two of the framed signs being on the streets:

"Regulations of the Iwilei Police Office.—1. Hours of occupation, from 4 p. m. to 2 a. m., and the gates will be open during those hours.

"2. The prostitutes must stay in their own rooms, and never be allowed to engage in the business at the roadside.

"3. Prostitutes, if they wish to, may remain all night in their rooms. They may also come in and go out at any time, but they may not ply their trade after the said hours.

"4. The masters of prostitutes, or their parasites (shogi no isoro), are not allowed to remain inside the fence or to sleep with their prostitutes through the night.

"5. Minors are prohibited from entering the enclosure.

"6. A policeman shall remain within the court from 4 p. m. to 6 a. m. Their hours of duty are as follows: One policeman from 4 p. m. to 12 m. One policeman from 12 m. to 6 a. m. These policemen will be changed, taking their turn at the end of each week.

"7. The duty of the police will be to quiet any disturbances that may occur, and to preserve good order in the place."

You will observe that the procurists and toughs are recognized as "masters of the prostitutes" and as their "parasites;" they are allowed to ply their trade, but are not allowed to remain in the sink. They may be denominated, under authority, as The Parasites, Limited, a corporation duly organized and authorized by the police department of Honolulu. I will not repeat here the shameful facts I gave months ago as to the guarantee the government is at pains and cost to give the patrons of this vice. It is all too shameful.

W. K. AZBILL.

The statement of the Rev. W. K. Azbill, as given above, gives but faint idea of the terrible evils of this hell hole of iniquity that damns the social and official life of this city. Two members of the staff of The Republican visited this place last night to see with their own eyes the evils of the place. They ascertained that there are 214 rooms in the barracks within the stockade.

Of the 214 rooms 162 are at present occupied, the inmates paying a monthly rental of \$15 each for their rooms, which are little dens about 10x12 feet. This means that with 162 rooms occupied the owners of these slave dens are in a monthly receipt of \$2,430. The total cost of the buildings certainly did not exceed \$5,000. This will show the enormous profits certain white men in Honolulu are receiving for furnishing dens for prostitution and for Japanese slavery.

Of the 162 women now in the stockade all are Japanese but fourteen, who are French. Investigation developed that nearly every woman there is a slave—absolutely a slave, owned in fee simple and open to purchase and sale the same as any other chattel. This, too, in face of the Fourteenth amendment to the constitution of the United States.

Around the buildings in which the little rooms are located is a fence ten feet high, built like a stockade around some prison ground. These slaves are herded within this stockade as so many

prisoners during the hours that prostitution is carried on there under government supervision.

All of the inmates are supposed to be over 16 years of age, but there are two or three girls there who are undoubtedly younger than that. One of these girls told Miss Harrison last Wednesday night that she was but 15 years old.

"I suppose the visitors here are mostly Chinese and Japanese?" was the cursory remark made to the policeman on watch by a Republican reporter last night.

"Oh, bless you, know," was the answer. "You want to come here later in the evening (it was then 9:30) if you want to see the visitors. There are as many white men as Japanese or Chinese, and some of the best citizens of the town are among the visitors."

"Some of the best citizens of the town are among the visitors." Is that why the grand jury could see no evil in this horrible place to condemn? It stands the good Christian women of Honolulu in stead for the protection of their homes, the protection also of their daughters, that they investigate this awful plague spot and scourge its proprietors and keepers from without the pale of social life in this city. It is said that the prayers of the righteous avail much. Good women of this city have labored for years to send money to help Christian workers to convert the heathen in foreign lands and yet right in the heart of this city is an evil more far-reaching in its terrible influences upon the life and upon the well-being of the Territory than all else within its borders. Better far that no missionary were ever sent to some other land in a hundred years than to allow this condition of vice and slavery to continue in the very midst of a so-called Christian city. Physician, heal thyself. Honolulu, heal thyself of this pollution which is destroying home life, destroying honor and virtue in nearly every household in the land.

Every minister in Honolulu should do as the Rev. Mr. Azbill has done—visit this place and see for himself and invite the true and earnest Christian workers of his congregation to go there with him. If they would do this there would be thundered forth from every pulpit in this city such polemics against this plague spot that no grand jury, no police force and no government could stand in defense of this most damnable spot within the confines of greater America.

Several cottages, a stable, sheds, wash house and some loose lumber belonging to the old Dr. McGrew property on Hotel street were sold at auction yesterday by F. J. Morgan. In round numbers \$500 was received for the lot. The sales were made by the single piece, however. Practically all of the purchasers were Chinese. The highest single price bid was \$125 for one of the cottages.

The successful bidders will probably use their new property for stores and residences, as several of the Chinese expressed such intention. The owners will be given a reasonable length of time in which to remove the buildings from the land, two weeks being the limit. The little two-room building which Dr. McGrew used for his office and which is familiar to practically everybody in the city, was not sold. It will be kept on the land for some time yet, as it is the intention to use the building for the contractors. Dr. McGrew was paid \$150,000 by Alexander Young for the land.

Will E. Fisher sold at auction the delinquent shares of the Maunaloa Sugar company. The sale brought from 10 cents to 35 cents a share, most of it going to persons not members of the company. Contrary to the usual custom there was no upset price fixed, the sale being peremptory and absolute.

Nine shares of the Pacific Cane and Fertilizer company were also sold at auction yesterday at \$1.25 a share.

ORDER OF PARADE FOR COMING LABOR DAY.

THE COMMITTEE HAS MADE SPLENDID PROGRESS WITH THE PREPARATIONS.

Many Interesting Floats Will Be in Line—Handicraft Shown in Everyday Activity.

Labor day will be an unusually interesting one and do full credit to Honolulu and the people who have the celebration in hand. This much is already assured by the report made by the committee last evening. The day will fall on Monday, September 3, and the preparations will all be perfected by that time. This is an excellent showing, considering that the committee had to work in a city where the day and the manner of its celebration are wholly new. The committee, consisting of D. W. Welsh, chairman; George Campbell and L. Jameson, secretaries; and the following order of parade for that day, and they have every hope of increasing the showing by further efforts:

Band.  
Mounted police.  
Policemen on foot.  
Grand Marshal W. C. Roe and aides.  
Honolulu fire department.  
Crew of U. S. S. Iroquois.  
Workmen of all trades, on foot.  
Goddess of Liberty.  
Two floats of school children, one of natives and one white.  
Band.  
National Guard of Hawaii, by consent of Col. Jones.  
The Honolulu Iron Works will have four floats, as follows:  
Machine shop in motion.  
One boiler shop, with boilermakers corking and chipping.  
Pattern shop, with gear wheels in motion.  
Blacksmith shop, with men at work.  
A float with granite cutters at work.  
Tim. Murray, with blacksmith shop.  
J. Nott, a float.  
J. Emmeluth & Co., a float.  
Pacific Cylinders Co., a float.  
The aids have not yet been selected, nor has the Goddess of Liberty been decided upon. The choice will fall on one of four young ladies.  
A prize of \$50 will be awarded to the best arranged and most attractive float in the parade.  
The committee will continue its solicitation of funds from business men to pay the expenses that will be necessarily incurred. So far the committee have faith in being able to raise all the money that will be needed to make the parade and the events all they should be.

## CORDIAL RELATIONS HERETOFORE EXISTING

### Between Several Honolulu Families Now Seem Strained.

#### WHAT IS IT ATTRIBUTABLE TO? IS IT DUE TO ANNEXATION, A SLUMP IN STOCKS OR OTHER CAUSES?

#### How Do Sociologists Account for the Change in Bench and Bar Relations and Also Families?

It seems in this land so blessed in everything that pertains to man's happiness that conjugal relations should partake of the affinity of angelic hosts; that man and woman joined together in wedlock by the divine and common law should sit under their own vine and fig tree and bill and coo like doves at the commencement of the closed season. But things have changed. The same cordial relations do not exist between bench and bar as heretofore. What is said of the bench and bar can be truthfully said of families, if the records of the court can be taken as a criterion. How do sociologists account for this change, not only in the cordial relations heretofore existing between bench and bar, but also in the cordial relations heretofore existing in families? Is it due to annexation or can it be directly attributed to the depreciation in sugar stocks?

Adelaide Andrade has been allowed two days' further time to answer her husband's, John S. Andrade's, complaint for divorce.

In the divorce proceedings instituted by William L. Peterson against Alice A. Peterson the libelee has filed her answer and confesses the truth of the allegations contained in paragraphs 1 and 2 of the libel relating to the marriage, and denies any other allegations contained in the libel. The case has been placed on the calendar for this term.

Rose Miner, in her divorce proceedings against Dr. Frank Leslie Miner, asks \$22 to meet costs of the suit and such amount as the court may allow as counsel fees to enable her to prosecute the suit.

And also that until further order the defendant pay into court on the last day of each month such sum as the court may allow as temporary alimony for the support of the plaintiff and her child, Gladys Miner, during the pendency of the suit.

The superior comes up for hearing this morning.

Carrie Kaal has sued Ernest K. Kaal for separation, alimony and counsel fees. The libel sets forth that Ernest is an accomplished musician and earns \$100 a month. Notwithstanding Ernest's accomplishments as a musician there wasn't much harmony in the Kaal household. Everything seemed to be out of tune. "Music hath charms to soothe the savage breast," but in the case of the Kaals it proved a signal failure. The couple were married on February 26, 1900. Immediately after the ceremony Ernest, bundling up his musical instrument, left Carrie to shift for herself, as set forth in her petition. She is now living on those who have been more fortunate in their matrimonial ventures than she.

White-winged peace once more dwells in the Flint family. As the play goes they have kissed and made up again and the curtain of harmony once more drops on the stage of domesticity, shutting out all divorce proceedings, family broils, jars, accusations, counter accusations.

W. A. Henshall, representing Harry W. Flint in his counter suit for divorce against Nina J. Flint, moves the court for an order vacating, setting aside and annulling the order of the court, made on the 21st of July, requiring libelee to pay temporary alimony, costs of court and counsel fees as therein set forth. The motion is based on an affidavit of the libelant that he and the libelee resume marital relations on August 7.

He Did Not Go to Maui.

There was an exciting scene at the Mauna Loa yesterday just before the steamer sailed. A big policeman, a big policeman with a warrant and a crowd of the women's sympathizing friends, made a swoop on the wharf and attempted to find A. Govea, the husband of the woman, who, it is claimed, was trying to desert her. The intending passenger was very much surprised at the action of the wife, and was inclined to kick at the summary manner in which she kept him here. He was taken to the police station, where a charge of desertion was lodged against him. He was released to appear in court this morning.

THE BERETANIA PUMP DOING EXCELLENT WORK.

Lifts Nearly Four Million Gallons Every Twenty-four Hours—In Fine Condition.

The Beretania street pump, which has been in use now for about five years, is in splendid condition, being just as good as it was when put in. It has had excellent care, and the fact that it pumps nearly 4,000,000 gallons every twenty-four hours demonstrates this. It is nearly 1,000,000 gallons a day in excess of the guaranteed capacity.

The motive power is a Corliss engine, driving a Blake pump. The water supply from the artesian wells has been found as ample and steady as the engine and pump.

The new Palama pumping plant, which is now approaching completion, will be a larger one, but it will be doing very well if it goes as much in excess of guaranteed capacity as the old one has.

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